

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 3322 of 2007()

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CC.126/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT,  
VADAKKANCHERY  
CRIME NO.280/04 OF THE ERUMAPETTY POLICE STATION IN THRISSUR.  
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PETITIONER: (ACCUSED 4 AND 7)

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1. ASOKAN, AGED 46, S/O.KUMARAN,  
VELUR VILLAGE DESOM, THRISSUR DISTRICT.
  2. SIVADAS, S/O.SIVANANDAN NAIR,  
CHERAYILVEETIL HOUSE, VELUR VILLAGE DESOM,  
THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: (COMPLAINANT)

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STATE OF KERALA,  
REP. BY THE SUB INSPECTOR OF POLICE,  
ERUMAPETTY POLICE STATION THROUGH THE  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**R. BASANT, J.**

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**Crl.M.C. No. 3322 OF 2007**  
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**Dated this the 1<sup>st</sup> day of November, 2007**

**ORDER**

The petitioners face indictment in a prosecution for offences punishable, inter alia, under Secs.143 and 188 read with Sec.149 of the IPC. Consequent to the non-appearance of the petitioners, the learned Magistrate has issued coercive processes against the petitioners. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Their absence earlier was not wilful or deliberate. They are willing to appear before the learned Magistrate and seek regular bail. The petitioners apprehend that their applications for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that

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the petitioners have come to this Court for a direction to the learned Magistrate to release them on bail when they appear before the learned Magistrate.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' applications for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and

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expeditiously – on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioners.

**Sd/-**

**(R. BASANT, JUDGE)**

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P.S. to Judge